

PLANNING AND ZONING BOARD

APRIL 9, 2008

1. ROLL CALL

The meeting was called to order at 7:05 p.m. Board members present were Chair Mike Bender, Vice-Chair John Stevens, Philip Busey and Mimi Turin. Also present were Attorney Thomas Moss, Development Services Director Marcie Nolan, Planning and Zoning Manager David Quigley, Deputy Planning and Zoning Manager David Abramson, Planner Lise Bazinet, and Board Secretary Janet Gale recording the meeting. Dan Pignato was absent.

2. APPROVAL OF MINUTES: March 12, 2008

Vice-Chair Steven made a motion, seconded by Ms. Turin, to approve the minutes of March 12, 2008. In a voice vote, with Mr. Pignato being absent, all voted in favor. **(Motion carried 4-0)**

3. PLAT

3.1 P 2-2-06, Brierwood Estates, 1251 SW 130 Avenue (A-1)

Bill Laystrom and Janes Storms, representing the petitioner, were present. Ms. Bazinet summarized the planning reports for items 3.1 and 4.1. She clarified that there had been a typographical error and that the development contained 38 single-family homes.

Chair Bender asked if the applicant had any objections to hearing items 3.1 and 4.1 together. Ms Storms indicated that she had no objections.

Mr. Busey asked Ms. Bazinet how staff determined that the rezoning would be compatible with the abutting residential districts. Ms. Bazinet read section (b) of the Staff Analysis which stated that the R-5 was compatible with CF, Community Facility to the north and west. She pointed out that to the south, Lorson Estates, had already been approved as R-5 and that portion was incorporated into Brierwood. Mr. Busey took issue with the compatibility as south of the entire proposed development and across SW 14th Street was an abutting R-1 neighborhood. Ms. Bazinet pointed out that the southern most portion of the project had been rezoned to R-5 and, therefore, the additional piece matched the zoning already established north of SW 14th Street. She also advised that the future land use had been established to be R-5 so the rezoning would be in conjunction with that land use.

Mr. Laystrom provided a brief presentation in which he addressed the R-5 density issue. He advised that in total, the entire project amounted to approximately 2.8 units per acre and that the developer was willing to deed restrict it in order to ensure that the property would always be 2.8 units per acre.

Chair Bender asked if the developer would consider some kind of buffering for the R-1 residences on the south side of SW 14th Street. Mr. Laystrom responded that the request had been made to him by Councilmember Luis as well as some questions about the buffering from a prior approval for Lorson Estates. Presently, they were considering some type of buffering on the developer's property to replace the tree line that had been lost in a hurricane. Mr. Laystrom advised that it was something to discuss with staff and he would take a look at it as it involved going onto someone else's property.

Mr. Busey asked about the acreage portions of each of the parcels. The Lorson Estates piece was 4.5 gross acres and the northern piece was 9.5 gross acres.

Chair Bender commented on the strategic placement of the lake and how it was used to buffer two existing R-1 homes from the proposed development. It was well done.

Chair Bender asked if anyone wished to speak for or against this item.

George Gall spoke in opposition. He was concerned with the traffic problems which already existed and which would intensify with the increased density.

Jim Andrews was opposed and disagreed with the compatibility of the project. He believed it did not fit the neighborhood and was concerned about increased traffic problems.

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Christine Galbrath indicated that she was representing her neighbors in Davie Oaks who were opposed to the rezoning. They believed that the homes were oversized and they were concerned about drainage and traffic issues. Ms. Galbrath believed that although the land use plan arbitrarily determined that anything north of SW 14th Street could be R-5 density, there should be buffers provided to phase in the high density thereby separating it from the low density areas.

As there were no other speakers, Chair Bender closed the public hearing.

Mr. Laystrom clarified that the development had only one entrance onto SW 130 Avenue and that what appeared to be a second entrance closer to SW 14th Street was an emergency vehicle access. He reminded everyone that the developer would deed restrict the density to 2.8 which was well below the R-5 zoning which was allowed.

Mr. Laystrom addressed the drainage concerns and explained that they were required to contain all their water on site. He encouraged existing residents to attend the Central Broward Water Control District meeting when this project would be reviewed in order to see that they met all the regulations to receive approval from the District.

Chair Bender disclosed that he had spoken with Mr. Laystrom in the afternoon. He reminded the Board that although the Lorson Estates application had been denied by this Board, it went on to receive Council's approval with a four-to-one vote. Chair Bender indicated that he trusted the integrity of Mr. Laystrom and the new plan which was not the case when the Lorson Estates had been reviewed. This time he "felt comfortable" and believed that whatever the vote was of the Board, "there was no way that the Council would deny it."

Mr. Busey indicated that he was opposed to the project because of its incompatibility and the critical nature of the intersection. He believed that the Lorson Estates approval was a mistake and allowing this rezoning would perpetuate that mistake.

Vice-Chair Stevens believed that this project was very different from the Lorson Estates proposal. He recalled that there had not been any agreement to deed restrict down to 2.8 units per acre; they were not willing to provide buffering as was being considered presently; and they did not put the lake in such a position as to provide a natural buffer. Vice-Chair Stevens noted that two of the people who spoke in opposition were from a community across the avenue where their zoning was R-5. The development was compatible with the zoning to the east and it was compatible with the CF of the high school. He indicated that he had no problem with it as long as it was deed restricted and they were willing to provide a buffer.

Ms. Turin had the developer clarify that although the request was for R-5 zoning, they would promise to provide 2.8 units per acre. Mr. Laystrom responded affirmatively. The question was asked about the lot sizes and it was explained that R-5 required a minimum 7,000 square-foot lot and the developer would provide 8,800 square-foot lots.

Mr. Busey expressed that he disagreed with Vice-Chair Stevens and believed there was a dangerous intersection with issues all around.

Vice-Chair Stevens countered that whenever a development was proposed out west, the same argument was presented about bad traffic and bad roads. It was not necessarily fair that a developer should be penalized because of issues due to the responsibility of the State, County and municipality.

Mr. Busey contended that the Board had to be fair to the residents that were already there. He believed that it was incompatible and that the traffic would not be sustainable with the present roads.

Mr. Laystrom advised that the developer would be dedicating additional rights-of-way for both SW 14th Street and SW 130th Avenue. A lengthy discussion ensued regarding the vision or the lack of vision that was applied in determining the land use for these properties many years ago. Chair Bender believed that the proposal could be far more intense than what was being proposed and he was concerned about becoming embroiled in a law suit which he believed the Town may lose, should the proposal be denied.

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Chair Bender asked for a motion for the plat, item 3.1, P 2-2-06.

Vice-Chair Stevens made a motion, seconded by Ms. Turin, to approve. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair Stevens – yes; Mr. Busey – no; Mr. Pignato – absent; Ms. Turin – yes. **(Motion carried 3-1)**

4. PUBLIC HEARING

Rezoning

4.1 ZB 12-2-05, Deerwood Estates, Inc./Lunetta, SW 130 Avenue and SW 14 Street (from A-1 to R-5) **(tabled from March 26, 2008)**

Vice-Chair Stevens made a motion, seconded by Ms. Turin, to approve subject to the 2.8 deed restriction and the additional buffering. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair Stevens – yes; Mr. Busey – no; Mr. Pignato – absent; Ms. Turin – yes. **(Motion carried 3-1)**

Vacation

4.2 VA 9-1-07, Ulrich/Sifontes, 5355 SW 76 Avenue

Mikki Ulrich, representing the petitioner, was present and explained the intent of her request. Ms. Bazinet summarized the planning report.

Upon closer review of the documents, Vice-Chair Stevens discovered that the right-of-way was privately owned. He asked Ms. Ulrich why she brought it before the Town to vacate. Ms. Ulrich responded that the easement had been dedicated in 1978 and the two property owners no longer were the property owners. Since she had no way of reaching them, she said it was a public vacation and it was the process she was told to follow. Vice-Chair Stevens advised that the Town did have the right to vacate rights-of-way; however, he did not know what right the Town had to vacate a private easement between two parcel owners. Mr. Abramson advised that he understood it to actually be a road easement for perpetual use by the public.

Vice-Chair Stevens noted that a private easement had been recorded on the plat and the Town did not, therefore, have the right to vacate it. A discussion ensued and Vice-Chair Stevens recommended that Ms. Ulrich contact the current owner of the property to resolve the issue.

Mr. Moss opined that since it was not a public right-of-way, the Town had no stake in it and it should not be before the Town at all.

Chair Bender indicated that he was in favor of tabling this item in order to give the applicant a chance to do some further investigation.

Ms. Turin made a motion, seconded by Vice-Chair Stevens, to table this item to the first meeting in May in order to give the applicant adequate time to make contact with the other owner and to bring back some kind of proof as to the Town's interest, if any, in this property. In a voice vote, with Mr. Pignato being absent, all voted in favor. **(Motion carried 4-0)**

5. OLD BUSINESS

There was no old business discussed.

6. NEW BUSINESS

There was no new business discussed.

7. COMMENTS AND/OR SUGGESTIONS

Mr. Busey complimented Vice-Chair Stevens on his legal prowess in discovering the issue with item 4.2.

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8. ADJOURNMENT

There being no further business and no objections, the meeting was adjourned at 8:07 p.m.

Date Approved: _____

Chair/Board Member